

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION, CINCINNATI

EVERETT W. WHISMAN, et al., :
Plaintiffs :
-v- : Case No. C-1-02-406
: (Judge Beckwith)
: (Magistrate Sherman)
ZF BATAVIA, LLC, et al., :
Defendants :

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The deposition of **GERRY PRIEST**, taken before Susan K. Lee, CVR-CM, Court Reporter and Notary Public in and for the State of Ohio, at the Holiday Inn Eastgate, 4501 Eastgate Boulevard, Cincinnati, Ohio, on the 2nd day of October, 2003, beginning at the hour of 9:02 a.m. and ending at 10:24 a.m. of the same date.

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ALSO PRESENT: MR. EVERETT W. WHISMAN
MR. HERBERT HUEBNER

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STIPULATIONS:

It is stipulated by and between counsel for the respective parties that the deposition of **GERRY PRIEST**, a witness herein, may be taken at this time pursuant to the Federal Rules of Civil Procedure and Notice; that the deposition may be taken via Stenomask by the Notary Public/Court Reporter, and transcribed by her out of the presence of witness; that the deposition was submitted to counsel for the witness for reading and signature.

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1 **GERRY PRIEST**, called as a witness, being first duly
2 sworn, testified as follows:

3 MR. SIMON: Mr. Priest, good morning.
4 We met a moment ago. My name is Steve Simon.
5 I'm an attorney for the plaintiffs in this
6 lawsuit. This is a lawsuit of a group of
7 employees who work at the Batavia plant, and
8 the lawsuit is against ZF Batavia and Ford
9 Motor Company.

10 BY MR. SIMON:

11 Q Have you ever given sworn testimony in
12 a proceeding before?

13 A Like a deposition?

14 Q Yeah.

15 A Yes.

16 Q When have you done that before?

17 A I did it earlier this year, several
18 months ago, and then one last year.

19 Q All right. Were those lawsuits against
20 ZF Batavia?

21 A Yes.

22 Q Was one Gene Gilliam?

23 A Yes.

24 Q Do you remember the other?

25 A Tony Clay.

1 Q Do you know the nature of Mr. Clay's
2 lawsuit?

3 A I don't know -- actually I don't know
4 if it was discrimination or what.

5 Q Okay. Had he been fired?

6 A Yes.

7 Q Have you ever given testimony at a
8 labor arbitration or anything like that?

9 A No.

10 MR. SIMON: Okay. Well, you're
11 familiar with the process. You're giving
12 testimony under oath. The court reporter is
13 taking down what you say. A transcript will be
14 produced.

15 The most important thing, Mr. Priest,
16 is just if you don't understand a question I
17 ask, didn't hear it, didn't understand it, just
18 ask me to rephrase it or re-ask it. Will you
19 do that?

20 THE WITNESS: Yes.

21 MR. SIMON: All right.

22 BY MR. SIMON:

23 Q What is the current status of your
24 employment at the Batavia plant?

25 A I'm actually retired. I retired

1 February 1st. I was -- I was a Ford ZF transition
2 employee.

3 Q So you retired from Ford?

4 A Yeah. The way they set it up for
5 transitions, if -- you know, with Ford if you had 30
6 years, you could retire. If you were a transition
7 employee, if you had a combined 30, you can retire, so
8 --

9 Q Did you start in 1973 at Ford?

10 A Yes.

11 Q And you were with Ford all the way
12 until 1999?

13 A Yes. Several different facilities.

14 Q How long were you at the Batavia plant?

15 A I'd been there since they were building
16 it.

17 Q Late '70s?

18 A Yes. I came there in July of '78.

19 Q And if I told you that you signed up to
20 join ZF Batavia October 1st, 1999, does that sound
21 right?

22 A It was either October 1st or November
23 1st, yeah, one of those two.

24 Q Okay. Staying with your current status
25 for a second, you retired from Ford?

1 A I retired from Ford and I am currently
2 on contract to ZF Batavia.

3 Q Well, had you considered retiring from
4 Ford and just continuing as a ZF Batavia employee?

5 A No.

6 Q Had you asked anybody about that
7 possibility?

8 A No. When I decided -- when I
9 originally decided to retire, I was really just
10 planning on retiring and maybe taking a break and then
11 maybe pursuing some other interests, you know, not just
12 retire, retire. And then the subject came up of -- I
13 stayed on a contract in the position that I was working
14 when I retired.

15 Q Had you been aware of Rick Ervin's
16 situation about his retirement?

17 A Only after I did what I did. Rick
18 worked -- Rick had worked for me off and on several
19 times over the years and I've worked with him in
20 different capacities, so we know each other very well
21 and I did hear that later, in the last maybe few months
22 somewhere.

23 Q But that was after February 1st?

24 A Yes.

25 Q So your position is that you're on

1 contract with ZF Batavia. What is your title?

2 A When I retired, I was production
3 operations manager. I had responsibility for the
4 entire evening shift. And I contracted with them in
5 that capacity. They've since reassigned me to a
6 different job. I'm working on the new -- the launch of
7 the new product right now.

8 Q You moved to the CVT in the last couple
9 of months?

10 A In mid-June.

11 Q Did anybody tell you why you were being
12 moved to CVT?

13 A They needed experience because the
14 launch is just behind. There's a lot of issues, and
15 I've been involved in several major launches over the
16 years. And they had asked me earlier to go over there
17 in -- in more like as an operations manager and I
18 wasn't really interested in that capacity due to the
19 fact that I was a retiree and, you know, I don't feel
20 like I'm really part of the long term at this point.

21 Q So between February 1st and mid-June
22 they had asked you about moving to CVT and you
23 declined; is that right?

24 A They discussed it with me and asked me
25 if I was interested in like being an operations manager

1 over there. We discussed it and I wasn't -- I was
2 satisfied really doing what I was doing.

3 Q And between the period of, let's say,
4 October 1st of '99 to 2003 they had never talked about
5 moving you over to CVT, had they?

6 A No, that never came up until this year.

7 Q Before you moved recently to CVT, was
8 there some people from Ford, from outside the plant,
9 who had visited the facility and, from what you
10 understood, made some sort of a determination that they
11 needed more experience on the CVT?

12 A I heard that. I -- I didn't -- I was
13 not a witness to that. I heard that there were some
14 people from Ford in and said "Gee, everything really
15 looks nice, great equipment, everything else," and
16 something to the effect of "Where's the old guys?" or
17 something like that.

18 Q And so I guess since you moved over to
19 CVT, one of the old guys they were thinking about was
20 you?

21 A I don't know that it was me
22 specifically, but they ended up putting a launch team
23 together to go over and assist. And it's -- really I'm
24 working with -- I'm working with three other guys that
25 I've worked with off and on for years that are really

1 experienced in different areas and we all went through
2 really launching the plant, launching the CD4E product
3 and so really we're just trying to assist in any way we
4 can to --

5 Q Who are those guys you're talking
6 about?

7 A I'm working with John Scanlon, John
8 Detloff and Alan Selby.

9 Q Are they former Ford employees?

10 A Yes. Alan and John are both Ford
11 transitions and John Scanlon actually retired from Ford
12 in 1996. He works like as a contractor through an
13 agency.

14 Q Are they engineers?

15 A John Detloff and Alan Selby are
16 engineers. John Scanlon and I are both production.

17 Q Just so I understand, when you moved
18 over to CVT, did the two Johns and Alan moved with you
19 to CVT?

20 A They were already there in different
21 capacities.

22 Q Who told you that somebody at Ford had
23 said "Hey, the equipment looks great. Where's all the
24 old guys?"

25 A You know, I don't even know. It was

1 more like a lunchtime conversation kind of thing. You
2 know, I just -- I heard it. I heard it said a couple
3 of times. I couldn't even tell you who or what the
4 validity of that comment is.

5 Q Who told you that you were going to
6 move over to CVT or who offered it to you?

7 A Several people talked with me. Alan
8 talked with me. Rick Williams talked with me. I had
9 some reservations about it, and they called me at home
10 one Saturday morning right when I was getting up and
11 wanted me to start that Monday. And I told them I
12 wanted to have a conversation with Dick Newark, who I
13 reported to, and so I went in and had a conversation
14 with Dick and told him that -- that's when they told me
15 they were putting this launch team together and the
16 people that I'd be associating with on a daily basis
17 and that sounded good to me.

18 Q And the launch team is the two Johns
19 and the Alan that you talked about?

20 A Yeah. They set up two launch teams.
21 That's one of them.

22 Q Who is the other launch team?

23 A Christoph Weippert, Jim Bellman, Mike
24 Connors and Frank Skidmore.

25 Q Are they also either former Ford

1 employees or retirees of Ford?

2 A Christoph is a gentleman, engineering-
3 type, who is a ZF employee. Jim Bellman is still an
4 active Ford employee. Frank Skidmore is a GM retiree
5 working on a -- like a contract and he had worked
6 another time for us on a contract.

7 Q Do you know of any Ford people that
8 were moved over, either they were Ford transitional or
9 they were retirees from Ford that moved over to the CVT
10 when you did during this period?

11 A That were Ford transition?

12 Q Yeah. Had either worked for Ford for a
13 long time like you had or had worked a long time and
14 had retired from Ford.

15 A That moved when I did?

16 Q Yeah.

17 A Jim Bellman and, I think, Mike Connors.
18 I don't think Mike had any association with it prior to
19 that.

20 Q You had heard through the lunchroom
21 talk that somebody had come into the plant from Ford
22 and said "Where's all the old guys, experienced guys?"
23 and you move over to CVT, Jim Bellman does, Mike
24 Connors. Does anybody else, as far as you know?

25 A Did anybody else?

1 Q Yeah.

2 A We moved some EEs over just --
3 electrical engineers. We added -- beefed that up a
4 little bit. They're not long-term employees, just real
5 good, sharp EEs. We needed some additional assistance
6 there.

7 Q Are they ZFB --

8 A They're -- they're all ZF employees.

9 Q Okay. So who do you report to now?

10 A Really Alan Selby. He's the launch
11 team leader on our half of it.

12 Q What is your title, by the way?

13 A They really never -- I mean, I'm still
14 contracted as a production operations manager, you
15 know. They're viewing this as like a six-to-nine-month
16 assignment.

17 Q Any idea what the future holds after
18 that?

19 A For me?

20 Q Yeah.

21 A No. I could continue on back in CD4E
22 or they could decide to terminate the contract.

23 Q Moving back to 1999, you had learned,
24 like everyone else, that the plant had changed
25 ownership, it was now going to be a joint venture with

1 ZF --

2 A They announced it October of '98.

3 Q October of '98, all right. Was that
4 the first you heard of it that morning when you --

5 A Yeah. Shock.

6 Q Well, how did you ultimately decide to
7 join ZF Batavia?

8 A Well, there were -- I mean, there was
9 just all kinds of discussions, there were meetings and
10 there was a lot of confusion at first because of the
11 initial statements that came out in the newspaper and
12 even in -- you know, it was all the Ford employees that
13 stay will continue to -- you know, could remain Ford
14 and all that.

15 So based on that, I was interested in
16 staying right off the bat, but then everything --
17 things changed in terms of what people's status would
18 be. And there was a lot of discussion with our current
19 Ford operations management team, some with ZF people
20 like Dave Adams. And then, you know, there was a lot
21 of discussion about who would be made offers to join
22 ZF, who would, who wouldn't. Of course, everybody was
23 discussing what their options were with Ford in terms
24 of do they have to relocate or could they go to
25 Sharonville and stay locally. And, you know, it was

1 just all kinds of stuff that went on for a period of
2 months. And there were meetings at the plant that were
3 chaired jointly by Ford and -- Ford HR people and ZF,
4 at the time, it was mainly Karl Kehr handled that end
5 of that.

6 Q You mentioned there was talk about who
7 would get offers, who wouldn't. When did you find out
8 that you were going to get an offer?

9 A Well, I think I knew early on that I
10 was going to get an offer, but I didn't -- it was more
11 like what would the offer be, what would, you know --
12 you know, would it be the same financially, you know,
13 what position would it be, so, I mean -- and I didn't
14 know what that would be.

15 Well, I had some discussions with Dave
16 Adams and he actually -- he -- he called me to
17 interview me for an engineering -- Dave is an engineer
18 and he called me to interview me for an engineering
19 manager's job and I said, you know, "Dave, I graduated
20 cum laude, but I've got a history degree. You know,
21 you don't want me for an engineering manager." So we
22 talked about what I did, and he said "Oh, I've got one,
23 two production operations managers. Would you be
24 interested in one of those?" And I said I'd consider
25 that.

1 Q And this was just sometime in '99?

2 A Yeah. Probably summer of '99.

3 Q You said he had two positions. Who
4 else, to your knowledge, was offered the other
5 production operations manager?

6 A Rick Williams and I were initially the
7 two production operations managers.

8 Q And you said that was the summer. Do
9 you know why it would have been until at least October
10 that you decided to join or signed off on joining?

11 A I had questions. One thing that was
12 very difficult to understand was the retirement end of
13 it. And when I actually joined in October or whenever
14 it was, I froze my Ford time at 26.9 years and
15 obviously when you've got a pretty good position with
16 Ford, I mean, you're fortunate enough to have a very
17 nice pension program. And I'm sure you know, those
18 pensions over 30 years, your monthly amount kind of
19 grows like this for 25 years and the last five years it
20 takes off like a rocket in terms of what you're going
21 to get per month. And there were just a million
22 questions that were -- the Ford people had a hard time
23 answering. I'm not criticizing them because they were
24 difficult questions. You know, there's a lot of math
25 and calculation involved in that kind of stuff.

1 And Rick was able to get enough data
2 from the Ford people in terms of how the monthly
3 benefits are calculated that he was able to create like
4 a simulation program where we could figure it out --
5 where we would know when it was time to retire and Ford
6 said here's your benefit, he could run that and figure
7 out whether it was really right or not. And so that
8 was one thing. And I had some other questions on -- on
9 insurance benefits.

10 Q Health insurance?

11 A Yes.

12 Q And were those concerns addressed to
13 your satisfaction?

14 A One wasn't but --

15 Q Well, was it addressed at the time and
16 then you later found after you joined that it wasn't
17 quite what you thought?

18 A Everything that was addressed in the
19 meetings, in the little brochure, I didn't have any
20 issue with that. I mean, it stated very clearly what
21 -- you know, that the health insurance was United
22 Health Care and what disability benefits were. That
23 was all very straight up.

24 And I had a question on long-term care
25 type insurance and that wasn't even addressed in the

1 brochure, but I talked with the current benefit guy
2 that launched the thing for ZF, Tony. I forget his
3 last name. And I had some discussion, brief discussion
4 with -- well, I talked to -- had some discussion with
5 Dave Adams and Karl Kehr about it. And I was never
6 told in writing that we were going to get long term --
7 you know, like a group way to get into long term care.
8 I was never given anything in writing that said we
9 would get it, but it -- the discussions were that we
10 were going to have a way to do that and I made my
11 decision to join considering that. But, again, nobody
12 handed me anything in writing that said we would.

13 Q They verbally promised you this was
14 going to happen regarding the long term insurance and
15 it ultimately didn't?

16 A Yeah, they -- yeah, more or less.

17 Q And also with the retirement, it's my
18 understanding at the time people who had 30 years in
19 Ford, like Bill DeVito, could retire and then continue
20 on as a ZF Batavia employee.

21 A Several people did that.

22 Q But some people, like you, who were
23 real close to retirement, didn't some people tell you
24 that well, down the road when it's 30 years, you can
25 retire then and continue on as a ZF Batavia employee?

1 A I don't know that that was ever told to
2 me. You know, the only -- there were discussions that
3 if you were real close, like within -- if you were a
4 Ford employee and you were eligible to retire by the
5 end of the year 2002, you could -- provided you were
6 given an offer, you could stay on site as a Ford
7 employee, not as a -- you wouldn't have to become a ZF
8 employee as long as you were eligible to retire by the
9 end of 2002 and you agreed that you would exercise that
10 right by then.

11 Q But regarding your situation where you
12 were going to retire in 2003 and maybe had an interest
13 in continuing to work for ZF Batavia, do you remember
14 anyone telling you that well, that option will be
15 available?

16 A I never had that --

17 MR. HUNTER: Objection. Asked and
18 answered, Steve. He already answered that.
19 You didn't like the answer. It doesn't mean
20 you get to ask it again.

21 MR. SIMON: Go ahead.

22 THE WITNESS: I just never had that
23 discussion with anybody.

24 BY MR. SIMON:

25 Q Did you have that discussion with

1 anybody after you joined?

2 A Huh-uh.

3 Q So the only time that you had heard
4 that being raised as an issue was after February 1st of
5 this year when Rick Ervin's situation came up?

6 A I just -- I just -- Rick told me that
7 he had had some discussions with them about that and
8 that they were looking into whether or not he could do
9 that. And it ended up coming down that the decision
10 was they couldn't.

11 When I retired, I -- that -- when I was
12 retiring, I was actually just -- I had no idea I'd be
13 doing what I'm doing today on a contract. I was going
14 to retire. Like I said earlier, I was going to take a
15 break for three to six months and then pursue some
16 other interests, so I never even thought to pursue
17 that.

18 Q All right. Between 1999 and this year
19 did you have any discussions with anybody about the
20 prospect of retiring at 30 years and continuing on as a
21 ZF Batavia employee?

22 A I didn't, no.

23 Q All right. Going back to the summer of
24 1999, you were given -- you said you had been told you
25 can have one of the production operations managers'

1 positions, Rick Williams was going to get the other,
2 right?

3 A I -- you know, I talked to Dave about
4 it and I know Rick had, too. We had both talked to
5 Dave about that and we were both given those offers.

6 Q And then what you ultimately made your
7 decision on was the discussions about long term
8 insurance and you and Rick Williams did your own
9 calculations on retirement and after those issues were
10 resolved in your mind, you signed up on October 1st,
11 1999 or thereabouts, right?

12 A Yeah. I went up and told Dave Adams
13 that I was going to sign on and paperwork followed, you
14 know, after that.

15 Q At some point were you told then, Mr.
16 Priest, by Mr. Adams or someone else that you should go
17 and talk to people who were going to be working for you
18 in the organization about joining ZF Batavia?

19 A I don't know if Dave told me that
20 specifically, but we had lots of discussions about that
21 and I -- I had an interest even of my own to go and
22 talk to people that I would want to try to get to work
23 in the organization. I mean, it was -- part of my
24 decision to join was who would I be working with at my
25 level. You know, that was important to me. And the

1 next thing very important was looking at putting a team
2 together.

3 Q Did you want to put a team together
4 before you ultimately signed on to ZF Batavia on
5 October 1st?

6 A No. Well, I had a lot of interest. I
7 thought about it a lot. Before I signed on, I had a
8 very -- I was 90 percent sure of who I'd be working
9 with at the same level. That I was pretty sure of.
10 And based on that, I signed and then started really
11 pursuing -- you know, I started talking with people
12 about "Hey, I've signed on. Are you interested?" and,
13 you know --

14 Q Even before you signed on October 1st,
15 1999, you had talked to people?

16 A Oh, I'm sure I had discussions with
17 people at probably many levels about are you thinking
18 about joining or they would ask me and, I mean, there
19 was all kinds of -- I mean, those kind of discussions
20 went on in conversations constantly.

21 Q Did you talk to -- I imagine you talked
22 to Rick Ervin.

23 A I'm sure I talked with Rick.

24 Q Dennis Baker?

25 A Yes.

1 Q Bill DeVito?

2 A My only discussions with Bill were, you
3 know, Bill had come -- Bill was concerned over his Ford
4 status and stuff and we had discussed about -- I had
5 mentioned to him that a couple other guys retired, they
6 had their 30 years, they retired and hired on full with
7 ZF and said "Bill, why don't you look at doing that?
8 That might work for you." And that's what he ended up
9 doing. And he did come to work for me when he did
10 that.

11 Q Do you know everyone who's in this
12 lawsuit?

13 A Well, I know some, but I know in just
14 some discussion yesterday there's some that I didn't.
15 I don't know if I know them all or not.

16 Q Who did you find out that you didn't
17 know?

18 A You mentioned Bill DeVito's name. I
19 had no -- if he's in it, I had no idea that he was.

20 Q Did you talk to Don Williams in '99
21 about joining?

22 A I probably had some discussion with Don
23 about are you going to join and things like that, but
24 the people that I were talking -- talking most directly
25 to, I knew that when I accepted the position that I

1 accepted, I really was continuing to do the same thing
2 I was doing. Because when Ford left, my title was
3 general superintendent. I was still responsible for
4 the entire evening shift, so I was really looking at
5 people that I -- that I would be -- I thought would be
6 interested in working the evening shift and trying to
7 look at that kind of -- putting that kind of team
8 together.

9 Q All right. So you said Rick Ervin and
10 Dennis Baker are two people that you recall talking to?

11 A Because of the area that they were in
12 mainly. They were -- both of them worked day shift,
13 but they were both tied in with the assembly end of
14 things.

15 Q You thought they were both good
16 employees?

17 A Yeah. I mean, it was important to me
18 who I followed, you know.

19 Q Do you remember anything specific from
20 your conversations with Rick, for example? I realize
21 you're not going to remember maybe word for word the
22 conversation this many years later, but just generally
23 the flavor of it or if you remember what Rick's
24 concerns were.

25 A No. I think Rick -- Rick's concern was

1 that he was hoping to get like a promotional -- if you
2 compared the equivalent job to a Ford job, would it be
3 like a move up kind of thing. And I think that his
4 initial offer, if you took it, again, as a Ford
5 equivalent, would have been like a step up.

6 And the same thing, I think, with
7 Dennis it was that way.

8 Q Let me show you a document. We'll go
9 to Exhibit 2. Mr. Priest, Mr. Hunter just handed you
10 what's been marked as Exhibit 2.

11 A Okay.

12 Q I realize you haven't seen this marked
13 as Exhibit 2 before, but have you otherwise seen a copy
14 of this document?

15 A This was the brochure, right?

16 Q Yes.

17 A The little fold-out brochure?

18 Q Right.

19 A Yeah.

20 Q Do you remember when you first received
21 that brochure?

22 A At one of the meetings that they held
23 in the cafeteria facility to start explaining things to
24 people.

25 Q Well, let's do it this way, too. Mr.

1 Hunter, if you could give him Exhibit 4. My question
2 about Exhibit 4 is: Is that the meeting you were
3 talking about in the cafeteria?

4 A I don't know. Well, this looks like an
5 all-day thing.

6 Q Well, I'll just represent on the record
7 it's been established that there were two meetings that
8 day, obviously depending what shift you worked. There
9 was a meeting in the morning --

10 A Okay.

11 Q -- and a meeting in the afternoon. You
12 can take a second to look at it, see if that jogs your
13 memory.

14 A Yeah, I do -- I remember because I
15 remember -- I remember the guy from the -- the girl
16 from Unicare. Yeah, United Health Care, I remember her
17 being there and I remember the insurance -- the
18 gentleman from the insurance company being there and
19 the Fidelity rep. Yeah, I remember that. I remember
20 the meeting.

21 Q And you think that you got the brochure
22 at that meeting?

23 A Yeah. And they gave us -- like they
24 gave us brochures on the dental program and the medical
25 and all that kind of stuff, too.

1 Q What is Exhibit 4, do you remember this
2 being handed out at the meeting?

3 A I want to look and see. I remember the
4 salary chart.

5 Q At a number of depositions in this case
6 I think it's been established that there may have been
7 slides presented at this meeting. Are those --

8 A They definitely did slides.

9 Q Do those look like copies of the slides
10 you may have seen at that meeting?

11 MR. HUNTER: Steve, can we take -- he's
12 still looking through the document. Let him
13 look through the document before --

14 MR. SIMON: Sure.

15 THE WITNESS: I remember seeing all of
16 this regarding overtime rates and all this
17 other stuff. I can't remember if I was handed
18 this in a meeting or if I might have been
19 handed it outside in a different venue to
20 review it to be able to kind of talk with
21 people about it. I do remember it, though.

22 BY MR. SIMON:

23 Q When you say talk with people about it,
24 did Dave Adams or somebody, Karl Kehr or anybody say to
25 you "Look, Gerry, we've given you this offer. I know

1 you're still considering it, but, you know, it's
2 important to us that you go out there and talk to Rick
3 Ervin, Dennis Baker, tell them about our..." --

4 A I never got that from them. We had
5 more -- more discussion like that amongst the Ford
6 management, the Ford management that was on site:
7 plant manager, Alain Claus; Glen Marinetti, production,
8 area manager. I mean, we had a lot of discussions
9 about -- about that kind of stuff because they were on
10 site until the end of June '99.

11 Q Mr. Marinetti and Mr. Claus, who were
12 Ford employees at the time, right?

13 A Yes.

14 Q And they stayed Ford?

15 A Yes.

16 Q They said that "Look, it's important to
17 us that we get certain people who are going to work
18 under you to stay in the plant because we need them in
19 the plant to keep the CD4E running," right?

20 A Well, I mean, there was just naturally
21 a concern about trying to maintain some stability as
22 you went through the transition.

23 Q And so you had a number of meetings
24 with Mr. Marinetti and Mr. Claus about --

25 A We did -- as a group we did.

1 Q Well, who else would have been in the
2 group?

3 A Other superintendent type -- people
4 that managed the floor.

5 Q Rick --

6 A And I'm sure there were similar
7 meetings with -- yeah, Rick was involved in this. I'm
8 sure there were the same kind of meetings like in
9 engineering as well.

10 Q And I know you can't remember
11 conversations word for word, but Mr. Marinetti -- what
12 was his position at the time?

13 A What Ford would call an area manager.
14 There were two area managers that shared overall
15 responsibility for the plant.

16 Q And that would have been above where
17 you were at the time?

18 A Yes. I would report directly to them.

19 Q And Mr. Claus was the plant manager?

20 A Yes.

21 Q So Mr. Marinetti and Mr. Claus said
22 during these meetings, "Look, Gerry, go and talk to
23 Rick Ervin, Dennis Baker, whoever you want on your team
24 and, you know, reassure them that this is a good move
25 to make to ZF Batavia"?

1 A I don't know if any of them ever said
2 reassure them. I don't think anybody ever said that.
3 I don't know that anybody even told me that, you know.
4 I mean, everybody pretty much had to make their own
5 decision based on what they saw and heard.

6 Q Did you understand from them that they
7 wanted you to recruit these guys that were going to
8 work for you?

9 A They just -- we just basically sat down
10 and looked at who we thought should get offers and who
11 shouldn't from the existing population and then it was
12 a matter of who would accept them or -- I mean, there
13 were some you knew right off the bat just would not
14 even consider saying I'm going to freeze my Ford
15 service at 28 years, just, you know, move me wherever
16 you're going to move me. You know, I'll -- I'll live
17 in a motor home for two years if that's what I have to
18 do, you know. I mean, there was a lot of people that
19 had that kind of feeling.

20 Q But the ones that they gave offers to,
21 you understood from Ford management that they wanted to
22 keep them at the plant; that's why they gave them an
23 offer, right?

24 A Sure.

25 Q And then did you ever get any --

1 A Well, certainly.

2 Q I mean, did you ever get any indication
3 in those conversations that they wanted you to kind of
4 persuade them to join the company?

5 MR. HUNTER: Objection.

6 THE WITNESS: I don't think they ever
7 really said that, you know. I mean, obviously
8 anybody we gave an offer to we were going to go
9 out and -- and talk to, all of us as a -- you
10 know, as a group.

11 BY MR. SIMON:

12 Q What were you supposed to talk to them
13 about?

14 A There was -- there was no like
15 strategy. Like if you're thinking -- if you're trying
16 to see if there was like a recruitment strategy, say,
17 to go and recruit Wayne, you know, well, gee, what's
18 the strategy for Wayne? There wasn't something like
19 that that I'm aware of. I don't ever remember
20 discussing anything like that. But it was just, you
21 know, make the offers and this would be a promotional
22 offer for so-and-so or a lateral offer for so-and-so.

23 Q I understand. I appreciate your
24 testimony. Do you know what you were supposed to talk
25 to them about? Did you have any indication what you

1 were supposed to talk to Rick Ervin about?

2 A No, not really, other than -- other
3 than if it was a promotional type, you know, "Rick,
4 this would be the equivalent to being a superintendent
5 at Ford," and "Gee, the current pay scale of a Ford
6 superintendent goes from here to here and they're going
7 to put you right in the midpoint of that so it'll be a
8 nice, you know, significant increase in your case," for
9 example. I'm just throwing it for example, just that
10 kind of thing. Otherwise, I mean, all I knew was what
11 they knew, what was here.

12 Q All you knew was what was on Exhibit 2?

13 A Yeah. And even though this is just
14 numbers and percentages, I mean, depending on anybody's
15 personal situation and family situation, these things
16 meant something different to everybody. I mean, it was
17 a hard decision for me, I know that.

18 Q Right. Do you remember going over the
19 brochure, Exhibit 2, with anybody?

20 A I don't -- I don't think I ever sat
21 down and specifically like tried to walk somebody
22 through it. I mean, I went through it in meetings that
23 the same people were in. We all heard it at the same
24 time. And I probably looked at it 100 times myself,
25 more with regard to how it fit me.

1 Q You had said before -- we talked about
2 the long term insurance, some verbal statements were
3 made; nothing was put in writing.

4 A Right.

5 Q Obviously Exhibit 2 is in writing,
6 right?

7 A Yes.

8 Q Was that important to you that it was
9 in writing?

10 A Yes.

11 Q And did you expect that what was put
12 here in writing would be followed through on after you
13 joined?

14 A Well, I mean, I would expect that if
15 it's in writing, it's -- you know, when I sign my name
16 on the dotted line, those are the rules or benefits or
17 whatever that are in effect. I mean -- I mean, I
18 understand things can change, you know. I mean, that
19 happens whether you work for Ford or ZF. I mean, you
20 know, they can add vacation time, take vacation time
21 away or decide there's going to be bonuses one year and
22 there's not going to be the next year because the
23 company had a bad year. I mean, you know --

24 Q Right. When you say you signed on the
25 bottom line, did you think you were entering into an

1 agreement with ZF Batavia?

2 A I just -- I know when they gave me an
3 offer, it was an offer that I signed. You know, it was
4 signed by I forget who, if it was Dave Adams or Karl
5 Kehr. And I know I signed in return. You know, it was
6 an offer of this position at this compensation, you
7 know.

8 Q And we have some written responses from
9 ZF Batavia that said that this Exhibit 2 was attached
10 to offer letters. I don't know if you remember yours
11 being attached.

12 A It might have been. I don't know. I
13 know I already had it. I've still got it. It's still
14 in my -- it's still in my briefcase.

15 Q When you signed on the bottom line and
16 Exhibit 2 may have been attached, did you think you
17 were entering into an agreement with ZF Batavia?

18 MR. VANWAY: Objection.

19 THE WITNESS: I just think that I was
20 entering -- I was changing my employment from
21 Ford to ZF.

22 BY MR. SIMON:

23 Q Why do you still have it in your
24 briefcase?

25 A I just -- I've just got a little folder

1 that's got some stuff in it, and particularly with
2 having fairly recently retired, I just carried that in
3 there all the time in that folder.

4 Q I guess you've kept it in your folder
5 because if you want to know what the terms of your
6 benefits and compensation are, you look at the
7 brochure?

8 A I don't know that -- I probably haven't
9 even looked at it in the last couple of years, you
10 know.

11 Q Well, you said it was in your
12 briefcase.

13 A Just, you know, it's a folder that's
14 got some stuff in it. Particularly when I started
15 thinking about retiring, I put all that stuff together
16 and I've got some documents from Ford and things like
17 that.

18 Q Just turning to the -- you're already
19 on the second page. And by the way, you understand the
20 brochure was a tri-fold, so --

21 A Yeah.

22 Q -- it's copied on two pages, but it
23 used to be set up like that. But what we'll call the
24 second page that you've turned to, do you see where it
25 has in the corner, salary? Do you see that in the

1 upper left-hand corner?

2 A Yes.

3 Q It explained what your base salary was
4 going to be on there, right?

5 A Yes.

6 Q Did your base salary stay the same when
7 you joined ZF Batavia or did it go up?

8 A It -- it went up.

9 Q Ultimately you were given a promotion?

10 A Yes. I -- the job that I accepted with
11 ZF was the equivalent of the job Mr. Marinetti left,
12 same level, so --

13 Q Got you. Okay. And it says in it that
14 broad-banding replaces salary grades.

15 A Right.

16 Q You were explained that during the May
17 meeting?

18 A Yes.

19 Q And it says authorized overtime will be
20 paid; you see that?

21 A Yes.

22 Q Your overtime had been paid while you
23 were at Ford, for salaried employees?

24 A Yes.

25 Q And you understood that it was going to

1 continue to stay that way while you were at ZF Batavia?

2 A I understood for employees at certain
3 level -- when I left Ford, I was at the highest level
4 you could go on management role -- I was on what Ford
5 called management role. They call it something
6 different now, LL6 or something, but the highest level
7 where you would still get paid overtime.

8 The job I accepted with ZF was a no
9 paid overtime job, nor was that a paid overtime job at
10 Ford. So there was a significant base salary increase
11 to compensate for that.

12 Q And obviously Mr. Adams or perhaps Mr.
13 Marinetti or Mr. Claus told you "When you take this new
14 position, you're losing your overtime pay"?

15 A I understood exactly how that worked
16 because it worked the -- the way it was offered to me
17 was at the level of Mr. Marinetti's job they said
18 here's the current Ford, you know, first quarter
19 through fourth quarter, this pay raise. We're offering
20 you the midpoint of this equivalent Ford pay grade and
21 the same ground rules apply, no overtime, but the
22 annual bonus thing, the rules are different. You have
23 a -- you could get a higher percentage of your base pay
24 in bonus than you could on the other kind of job. It
25 was exactly like Ford's was, was the way it was

1 offered.

2 Q And had you explained that to Rick
3 Ervin or Dennis Baker, that, look, the overtime thing
4 is going to be exactly the way it was at Ford?

5 A Not really. I mean, it just pretty
6 much -- it just -- it was in writing somewhere what the
7 -- well, it said it here and then in this it showed
8 what the actual rates were going to be and those were
9 the rates that were in effect at Ford at that time. At
10 that point in time they were the same.

11 Q I got you. You understood because you
12 were joining at a higher level you were going to lose
13 your overtime when you joined ZF Batavia, right?

14 A Right.

15 Q But you understood for everybody else
16 who worked in positions below you who would have
17 received overtime at Ford were going to continue to
18 receive overtime while they were at ZF Batavia?

19 A Yes.

20 Q All right. So do you recall Rick Ervin
21 or Dennis Baker asking you about overtime?

22 A During whether or not -- the joining
23 period?

24 Q Yes. Yes.

25 A No. I think it was pretty clear, you

1 know.

2 Q It was just understood that they would
3 receive overtime?

4 A Yeah. I mean, in the meetings, anybody
5 that worked in production or maintenance, I mean, they
6 -- you know, it's the first thing they wanted to know
7 because they know they're going to be in there 50 or 60
8 or 70 or up to 80 hours a week and, you know, they want
9 to know if that policy is in effect.

10 Q Do you remember people -- maybe you
11 don't remember specific people. Do you remember during
12 these meetings in '99 people raising that issue, is
13 overtime going to be paid?

14 A Oh, yeah.

15 Q No question about it, that was an
16 important issue to a number of people?

17 A Certainly.

18 Q You were with Ford for -- well, at that
19 point you were with Ford 26 years; is that right?

20 A It was -- they froze my retirement at
21 26.9 years.

22 Q While you were at the Batavia plant,
23 for people at your level at the time and below, they
24 were paid overtime?

25 A I'm sorry?

1 Q I'm just trying to move over to -- what
2 I'm really trying to find out is what was the policy at
3 Ford regarding overtime. Have you heard of casual
4 time?

5 A Absolutely.

6 Q And at Ford it was understood that you
7 might put in 15 minutes or so before or after your
8 shift to get things started and hand it over to the
9 next guy?

10 A You know, my experience with Ford was,
11 and my policy as a Ford manager was, if you were, say,
12 a production supervisor and your shift was scheduled to
13 run eight hours and let's just say that eight hours was
14 8:00 a.m. till 4:00 p.m. and you handed me your time
15 statement and it said 8:00 a.m. to 4:30 p.m. with .5
16 hours overtime, I would say "Don't put .5 hours
17 overtime on there. We don't pay .5 hours. That's part
18 of your job. You're a salaried individual."

19 So -- and there were definitely many,
20 many times over the years with Ford, particularly in
21 the '80s when there were some really bad economic
22 times, that, I mean, it was just no overtime, period,
23 and, you know, you're expected to give -- an hour a day
24 casual time is reasonable, you know. I mean, you need
25 to be out on the floor to make sure your shift started

1 and the parts are where they're supposed to be and
2 complete your paperwork at the end of the shift, that's
3 -- that's part of your job. And I think just about
4 anybody at Ford understood that. You're not on a time
5 clock if you're salaried.

6 Q How long was that period in the '80s
7 that you didn't get paid overtime at all; do you
8 remember?

9 A I don't know. Just, I mean, at the
10 time -- in 1999 as a Ford employee who got paid
11 overtime, I mean, if my normal day was nine hours or
12 nine and a half hours, I didn't pay myself overtime. I
13 paid myself overtime if my operations were scheduled to
14 run overtime and I had to -- and I had planned ten-hour
15 operations or 11-hour operations. But if it was a
16 normal day and I -- you know, the shift started at 7:00
17 and technically ended at 3:30, you know, I'd get in the
18 plant about 6:30 and we'd have an end-of-the-shift
19 wrap-up meeting and, you know, 4:30, quarter to 5:00 go
20 home, I didn't pay myself overtime for that. Or I
21 didn't personally.

22 Q Did others?

23 A A -- a foreman, I think, would, you
24 know, but -- you know, I mean, if I had my operation
25 scheduled nine hours, then it took me, say, till 5:00

1 or 5:30 to go out, I paid myself one hour overtime.

2 Q Okay. So for a foreman, somebody who
3 supervises hourly employees --

4 A Yeah.

5 Q -- at Ford if they worked, let's say, a
6 half hour beyond their shift overtime, you would say
7 don't put that down, that's just a half hour?

8 A No. I mean, that's just part of your
9 job. But if your department is scheduled ten hours,
10 you're expected to be in a little bit ahead of that and
11 get your paperwork done at the end of the shift, and if
12 you can have your paperwork done right at the end of
13 the shift, great. If it takes you an extra 20 minutes,
14 that's not overtime. But you're paying yourself ten
15 hours, you're in there managing that line for ten
16 hours.

17 Q For the foremen in that situation
18 generally if you worked at least an hour overtime, at
19 that point, once you hit the hour, you'd put that down
20 as overtime?

21 A Yeah.

22 Q Is there a certain level you would get
23 beyond foreman that you wouldn't do that? You said you
24 didn't do it, but, I mean, is there a certain level
25 where people were not supposed to put down an hour of

1 overtime in that situation?

2 A No, I don't know that it was a real
3 clear-cut thing, you know. I mean -- but, I mean, the
4 way I was brought up in the Ford system, you know, and
5 just kind of the people that I started under and the
6 policies, I mean, you were expected -- you know, I
7 mean, I hired in as a production foreman and if the
8 shift started at 7:00, you weren't expected to walk in
9 at 7:00 and go "What the hell is going on?" You were
10 expected by 7:00 to know what was going on, get your
11 lines manned and get it moving.

12 Q What was Rick Ervin's title when you
13 talked to him in '99; do you recall?

14 A In -- prior to him joining the joint
15 venture --

16 Q Yeah.

17 A -- he was an MPS, a manufacturing
18 planning specialist.

19 Q So that's above foreman, right?

20 A Yes.

21 Q If Rick Ervin's practice had been that
22 if he worked at least an hour beyond his regular shift,
23 he would put it down as overtime --

24 A I'm sure he would, yeah.

25 Q And that would be appropriate at Ford?

1 A Yeah.

2 Q And in '99 when this brochure said
3 authorized overtime will be paid, you understood that
4 people were going to be paid overtime the way they were
5 at Ford?

6 A Yeah. I just didn't think of it in any
7 other way because that's the only way I had ever done
8 it or dealt with it.

9 Q I understand. So from your perspective
10 if Rick Ervin put down an hour of overtime when he
11 worked an hour beyond his shift at Ford, from your
12 understanding it would certainly be the appropriate
13 expectation for him to put down an hour of overtime and
14 be paid at ZF Batavia?

15 A I would think that's the way he would
16 have understood it.

17 Q Did ZF Batavia at some point move to a
18 different overtime policy where you had to work two
19 hours to be paid one hour?

20 A You know, there was maybe in 2001 or
21 '02, I don't know when exactly it was, but there was a
22 lot of discussion about overtime and having to work
23 like an hour a day of casual and I can just tell you
24 from my perspective, I managed the evening shift and
25 there were some -- a few people on the evening shift

1 that were ex-Ford. There were also a lot of people
2 that had never worked for Ford. I'm talking salaried
3 people. And in those discussions that I had, as I
4 tried to explain to people -- now this is in
5 production. I'm addressing production, not maintenance
6 -- "Guys, this is no different than what Ford has ever
7 expected of me over the years. And all they're saying
8 is you're salaried. There's a certain amount of casual
9 time involved in that job. I mean, that's the same
10 reason when you've got to leave two hours to go to the
11 dentist, you're paid for it. You're not docked. I
12 mean, that's the flip side of the coin." And that's
13 the way I explained it to people.

14 Q Did you see it as a change from Ford's
15 policy?

16 A Not really. But, I mean, at that point
17 I think people were tending just to more pay themselves
18 without -- you know, without any casual. I don't think
19 that was, at least from the production end of it that
20 it was really any different than what Ford had really
21 done over the years. I mean --

22 Q You said "I don't want to talk about
23 maintenance." How was maintenance different?

24 A I was just dealing with the production
25 end of it is what I'm saying. And I know there was

1 different things going on in maintenance with that,
2 too.

3 Q I don't understand what you're talking
4 about. How would maintenance --

5 A Well, on my end of it -- I mean, there
6 were some instances in maintenance, I think, where I
7 think people were working and maybe not getting paid
8 any overtime up to some point. I don't know the
9 specifics of it.

10 On the production end, though, nobody
11 was ever told to run your line 12 hours tomorrow and I
12 expect you to be here and then not pay yourself. They
13 were expected to put in a reasonable amount of casual
14 time at the front and the back of the shift and pay
15 themselves -- at least nobody that worked for me never
16 got paid overtime.

17 Q Are you talking about the spring of
18 last year when there were concerns about the overtime
19 budget across the board in the plant?

20 A You know, I can't remember exactly when
21 it -- last year being 2002? It might have been -- I
22 said 2001 or '02, I couldn't remember exactly. But
23 yeah, I mean, it was like that time of year, though.

24 Q And even though you didn't work in
25 maintenance, you were aware that some people in

1 maintenance had worked some period of time without
2 being paid overtime?

3 A I heard a lot of stuff because with
4 having overall shift responsibility, I mean, there were
5 maintenance guys on our shift, too, you know.

6 Q Do you remember anyone, either yourself
7 or someone else, telling the human resources department
8 about that?

9 A About?

10 Q About the people -- what you're saying
11 is that you had heard that people had worked overtime
12 in maintenance and weren't paid overtime?

13 A I had heard that, yes.

14 Q Do you know if that ever was reported
15 to human resources?

16 A I don't know for a fact that it was or
17 wasn't. I would imagine it was but --

18 Q Because it was all over the plant,
19 right?

20 A Yeah.

21 Q Do you know what an LPM is, Mr. Priest?

22 A Yeah. Lean processing manager.

23 Q And when was that title established; do
24 you recall?

25 A After the joint venture. That was the

1 equivalent of what Ford called an MPS, which was a
2 manufacturing planning specialist.

3 Q And it's been a critical position, has
4 it not, the LPM?

5 A Yeah.

6 Q Has anyone told you that there's talk
7 of eliminating that position?

8 A I haven't heard that.

9 Q Mr. Ervin is an LPM, right?

10 A Mm-hmm.

11 Q And Mr. Steward is an LPM?

12 A Mm-hmm.

13 Q Is there any other LPMs in the plant?

14 A There was one in gears and I think they
15 might have just made -- made another one, Tom Hines
16 maybe, I think. I'm not sure because that's kind of
17 happened since I've moved to the CVT side.

18 Q Are there any Ford transitional
19 employees working on the CVT? Just from your
20 experience in '99 -- you had said you only recently
21 came into CVT. Just generally your perspective after
22 you joined the joint venture, were there a lot of Ford
23 transitional or Ford retirees working on the CVT?

24 A There weren't a lot. I mean, I know
25 Rob Kurtz, who was actually an active Ford employee,

1 worked in CVT early on in engineering. Alan Selby is
2 an engineering manager. He's a Ford transition. And
3 John Scanlon, one of the guys I'm working with, he was
4 -- he came back out of retirement to do contract work
5 to help set quality systems up.

6 Q But none of the foremen or other people
7 who used to be MPSs at Ford joined the CVT that you
8 remember?

9 A No, not that I can think of. Not until
10 Mark -- no, Mark Calhoun is not Ford. Okay. No.

11 Q And back in '99 there was -- maybe
12 there was even -- you might even call it excitement
13 about the change to ZF Batavia --

14 A Everybody was excited about it.

15 Q They were excited about the CVT, right?

16 A Sure.

17 Q New technology?

18 A New technology, a chance for the plant
19 to stay on as a viable place to work, absolutely.

20 Q And I think people used the phrase you
21 can get in on the ground floor on this new technology?

22 A Sure.

23 Q Were you surprised then after '99 that
24 so few Ford transitionals were moved over to the CVT?

25 A Mm-hmm.

1 Q That was a yes?

2 A Yes.

3 Q Did you voice that concern to anybody?

4 A Like a superior or something like that,
5 a boss or something?

6 Q Anybody. Anybody, Mr. Priest.

7 A I mean, I'm sure I was in discussions.
8 I can't remember who I talked to or if I talked to,
9 say, Dick Newark. I might have talked to Dick Newark
10 about it, very well could have because, you know, my
11 belief is in any launch that forget whether you're Ford
12 or whether you're ZF. You're going to launch a new
13 product. You always want to do better than you've done
14 in the past. You want to go up a notch. There's new
15 ideas and you need a good diverse mix of people when
16 you do that. And, you know, that's -- that can be --
17 that can be race, that can be gender and it's certainly
18 age and experience. You want the youth and you want
19 the people who think there's never going to be a
20 reject, never going to be a problem. But you also got
21 to have somebody that goes well, wait a minute, put the
22 skids on here, this won't work. You know, I mean, you
23 need a -- you don't want all people like a me either,
24 you know, that -- you want to get -- get the new blood.
25 You need a mix. That's all I'm saying.

1 Q And you thought that the mix for the
2 CVT should have included more Ford transitional
3 employees?

4 A Should have included more experienced
5 people. And there were experienced people that were
6 Ford transition employees that would have fit that, in
7 my opinion.

8 Q Did anyone ever tell you why more Ford
9 transitional employees weren't moved from the CD4E to
10 the CVT?

11 A Not directly, except I think it was
12 more of try to change mentality kind of thing or
13 something like that or have a different mentality than
14 a Ford -- a quote, unquote "Ford" mentality, whatever
15 that is.

16 Q I think I've heard that. Has a number
17 of people in the upper management made comments like
18 "We need to get the Ford influence off the plant floor"
19 or "We need to get people away from the Ford way of
20 thinking," that sort of thing?

21 A There have certainly been comments like
22 that that have bounced around.

23 Q And Mr. Newark has been one?

24 A Yeah, probably.

25 Q Mr. Adams?

1 A I've heard different things, I mean,
2 here and there. I don't, you know --

3 Q I'm not trying to put you in an
4 uncomfortable position. But, I mean, Mr. Adams and Mr.
5 Newark have said things like "We need to get the Ford
6 influence off the floor," or "We need to get away from
7 the Ford way of doing things," that sort of thing?

8 A There were definitely comments made to
9 not have a Ford mentality or something to that effect.

10 Q And from your perspective you thought
11 that that attitude may have affected why more Ford
12 transitional employees weren't being moved to CVT?

13 A It very well could have.

14 Q I mean, did you hear other Ford
15 transitional employees kind of express concerns that
16 "Hey, we were told that we were going to be in on the
17 ground floor, but we're just here on CD4E"?

18 A I heard numerous people express those
19 concerns.

20 Q And you thought they were valid
21 concerns?

22 A Depending on the individual, I may not
23 have with some, but with some I certainly thought that
24 they could have been very helpful.

25 Q And did you think that the fact that

1 people who were Ford transitional employees and not
2 moving to CVT, did you think that kind of contradicted
3 the promises that people were told in 1999 about
4 getting in on the ground floor?

5 MR. HUNTER: Objection to the
6 characterization of the question in terms of
7 promises.

8 MR. SIMON: You can answer, Mr. Priest.

9 MR. HUNTER: You can answer.

10 THE WITNESS: Okay. Well, I was going
11 to kind of say I don't know that anybody was
12 promised anything, but the implication was
13 certainly there this is a new program, new
14 technology and you're here on the -- we're all
15 here on the ground floor. And I'm sure we all,
16 including myself, had -- well, there was a lot
17 of excitement about that and feeling like we
18 were going to be part of a new program.

19 BY MR. SIMON:

20 Q And ultimately that didn't happen for a
21 lot of people?

22 A Right.

23 Q A lot of Ford transitional people?

24 A Right.

25 MR. HUNTER: Steve, we had Mr. O'Hagan

1 set for 10:30. Should we tell him to move back
2 or --

3 MR. SIMON: No, no, no.

4 MR. HUNTER: Okay.

5 MR. HUEBNER: So we're going to be
6 about on time?

7 MR. SIMON: Oh, yeah. Yeah.

8 MR. HUEBNER: Okay. I'm going to just
9 step out. You can keep going, but I'm just
10 going to call.

11 MR. SIMON: Off the record for just a
12 second.

13 (OFF THE RECORD)

14 MR. SIMON: Back on the record.

15 BY MR. SIMON:

16 Q In 1999 had anyone ever told you,
17 whether it was Mr. Claus or Mr. Marinetti or perhaps
18 Mr. Adams -- anyone explained to you that look, Ford
19 salaried employees make a lot more than your typical
20 market salary?

21 A (Shakes head)

22 Q You're shaking your head.

23 A No, they -- they didn't tell me that.

24 Q You understood the Ford transitional
25 employees make more than some of the ZF Batavia new

1 hires for comparable positions in certain cases?

2 A In certain cases, yes.

3 Q Had anyone ever told you that, look,
4 ultimately we'd like to get those two salary levels to
5 align?

6 A No, nobody ever told me that.

7 Q Did anyone ever tell you that there was
8 some sort of effort to reduce merit increases for the
9 Ford transitionals to get them in line with the ZF
10 Batavia new hires?

11 A I was never told that there was an
12 effort to do it, but there were some -- you know, some
13 differences that seemed to appear in merits between
14 Ford and ZF employees.

15 Q When did those come up?

16 A When we did annual reviews and
17 recommended people for merits.

18 Q And that process would have begun in
19 2000, right?

20 A Yes.

21 Q At your level that you were at when you
22 joined ZF Batavia, obviously you were overseeing --
23 well, how many people were under you ultimately?

24 A In salaried?

25 Q Yeah.

1 A On that shift I don't know, maybe if
2 you just took everything, I mean, maybe 20.

3 Q Are we talking about those group of 20
4 people that you would evaluate what their merit
5 increases were and --

6 A We did it different ways, but I
7 definitely had a batch that I would evaluate every year
8 and write performance appraisals and put in
9 recommendations for merit increases or not put one in.

10 Q And so from that you've said, I'm
11 gathering somebody from elsewhere in the company told
12 you "You recommended this for a merit increase, but
13 we're actually going to give him this."

14 A There were cases where I recommended
15 and it came out different than what I recommended.
16 Nobody had came and told me "I'm going to do this or
17 that or cut this or that," but, you know, I would
18 follow the criteria for the recommendation, and that
19 was based on the amount of funds available -- very
20 similar to the Ford process, what the employee's
21 current salary was, where they fit into the -- which
22 quartile of the salary grade, you know, and recommend a
23 merit increase based on that.

24 Q How did you find out that your
25 recommendation hadn't been followed in certain cases?

1 A They just came out different than what
2 they were submitted.

3 Q Like you would find out what the merit
4 increase was before the employee was informed?

5 A Yeah.

6 Q And that's how you found out you were
7 --

8 A Yeah. A document would come down to,
9 you know, so-and-so has been awarded a merit increase
10 of three percent or some percent, you know, and you as
11 a supervisor would be given that to give to that
12 employee.

13 Q And when you made your recommendations,
14 I imagine the recommendations were given to the human
15 resources department?

16 A Well, in my case they would go through
17 Dick Newark to HR or maybe to the TMT or something, you
18 know, and they would, I guess, go over and probably
19 look at the whole process for the whole plant I would
20 imagine.

21 Q Who would have been the TMT?

22 A That's Dave and Karl and -- I'm just
23 assuming. I'm sure it goes -- because they have to
24 make sure it's contained within the, you know, the
25 available funds and all that. Each organization gets a

1 certain piece of the pie, you know.

2 Q So I'm just trying to understand the
3 process. If you make a recommendation for a merit
4 increase in 2000 for somebody and it comes back and you
5 see that the merit increase recommendation wasn't
6 followed, you can only assume that it was either Dick
7 Newark, Dave Adams, Karl Kehr or someone in human
8 resources that --

9 A Somebody decided to change it for some
10 reason.

11 Q I realize you don't know and I
12 understand you don't know who did it. But would it be
13 your understanding that would be someone like Dick
14 Newark?

15 MR. HUNTER: Objection. Lack of
16 foundation to be able to answer that question.
17 You can answer to the best of your knowledge.

18 THE WITNESS: I mean, it could be, but
19 I don't know.

20 BY MR. SIMON:

21 Q Well, I'm trying to think. I mean, you
22 didn't think it was Herb Huebner that changed it?

23 A I wouldn't think it would be a Herb
24 Huebner, no.

25 Q You think it would be somebody up

1 higher in your chain of command?

2 A I would -- that would be my -- that
3 would be my opinion, yes.

4 Q And Dick Newark was your person who was
5 directly above you?

6 A Mm-hmm.

7 Q Yes?

8 A Yes. I'm sorry.

9 Q And then, of course, Dave Adams and
10 Karl Kehr would be above Dick, right?

11 A Yes.

12 Q Getting back to what you originally
13 said, for a number of these recommendations for merit
14 increase that weren't followed, they weren't followed
15 where the employee was Ford transitional?

16 A Yes.

17 Q And there were enough of those
18 instances that you wondered is there a different merit
19 increase for a Ford transitional or a ZF Batavia new
20 hire?

21 A It definitely would -- would make you
22 wonder.

23 Q Did you ever directly ask anybody that?

24 A No.

25 Q Did you ever gripe to anybody about

1 that?

2 A No. I mean, no, I -- I didn't
3 personally but --

4 Q Others did?

5 A I'm sure they -- I'm sure there was,
6 you know --

7 Q There was a kind of understanding, from
8 what you heard, that merit increases may be treated
9 differently for Ford transitional versus ZF Batavia new
10 hires?

11 A I don't know that I ever directly heard
12 it, but there -- if you looked at the way they came
13 out, it appeared that there was something like that
14 happening.

15 See, I was a little bit less involved
16 in the direct discussions on those, being on the
17 evening shift. There was a lot of meetings and stuff
18 like that that went on that I didn't personally attend.

19 Q Do you remember the merit increase --
20 as we were discussing, do you remember the
21 recommendations not being followed for Bill DeVito?

22 A I can't remember specifically.

23 Q Can you remember anybody specifically?

24 A No, I don't remember a specific. I
25 mean -- I mean, there was more than one, but I -- I

1 don't remember -- I can't think of a I submitted this
2 percent and it came out at that percent.

3 Q Right. It's been a few years ago. I
4 didn't know, like Dennis Baker or Rick Ervin, any of
5 those people, do you remember this coming up?

6 A No. But, see, I didn't do theirs.
7 They were on the day shift.

8 Q You did just production on night shift,
9 right?

10 A Yes.

11 Q But even though you were privy to
12 everything on first shift, you understood that this
13 phenomenon with merit increases with respect to Ford
14 transitionals and ZF Batavia new hires -- it was your
15 understanding that this may be happening on first shift
16 as well?

17 A Yes.

18 MR. SIMON: Off the record.

19 (OFF THE RECORD)

20 MR. SIMON: Back on the record. Mr.
21 Priest, just a few more questions.

22 BY MR. SIMON:

23 Q This May 27th meeting in the cafeteria
24 that you've got the exhibit for there in front of you,
25 and we've talked about that a little bit, do you

1 remember Karl Kehr being at that meeting?

2 A Yeah.

3 Q He's listed as being there. And
4 obviously the point of the meeting was to go over some
5 of the benefits and compensation that are outlined in
6 the pages --

7 A Right.

8 Q -- that you see in front of you. Do
9 you remember Karl Kehr ever saying at that meeting
10 "Now, you all understand that all this is subject to
11 change"?

12 A No.

13 Q Did anybody say anything like that at
14 the meeting that you recall?

15 A Not that I'm aware of. Not that I
16 remember. I mean, there were questions that people
17 brought up that maybe somebody -- somebody in the room,
18 say this group, for example, somebody might have asked
19 a question that somebody did not have the answer for
20 and they had to say we'll go back and -- there were two
21 or three meetings -- and we'll report back or we'll get
22 an answer directly to you or to the group.

23 Q But in terms of like when they were
24 talking about overtime, for example, did Karl Kehr or
25 anybody say "Now, you understand this is all subject to

1 change"? Do you remember anybody saying anything like
2 that at all?

3 A No, I don't.

4 Q Do you remember them talking about that
5 when they were talking about vacation -- do you
6 remember them talking about vacation days and sick days
7 and all that kind of stuff at the meeting?

8 A Do I remember them talking about it?

9 Q Yeah.

10 A Yeah.

11 Q Do you remember anybody at that point
12 saying "You all understand that this is all subject to
13 change"? Did anybody make that comment?

14 A I don't remember that, no.

15 Q When you were talking to Rick Ervin,
16 Dennis Baker and Bill DeVito, you've testified -- I
17 think Bill DeVito, you may have testified the
18 conversation was limited. But in any case, did you
19 tell Rick Ervin or Dennis Baker or Bill DeVito or
20 anybody else who was considering joining that, hey, you
21 understand that everything in this brochure which
22 you're holding, Exhibit 2, this is all subject to
23 change? Did you tell anybody that?

24 A Well, no, I didn't tell anybody that.

25 No. I mean -- but, I mean, like I say, my opinion was

1 -- I mean, I understand that as time goes on, things
2 can change. I mean, but I don't remember anybody
3 saying here's the brochure, here's the benefits, and
4 these are all subject to change. I don't ever remember
5 that coming up.

6 Q Well, I mean, if --

7 A My own interpretation of the benefits
8 or changes as a Ford transition employee at the time
9 would be that I would have expected changes in
10 accordance with changes that Ford made. In other
11 words, if Ford had said in the year 2002 there will be
12 no merit increases, I would have been expected being
13 told, even though I was a ZF transition, that that was
14 going to affect me the same way.

15 But I would have been -- and maybe I'm
16 wrong in my thinking like that, but my thinking is I
17 would have continued to be kind of -- have the same
18 rules, things apply because basically it was the same
19 as -- other than the insurance company change and stuff
20 like that. The pay practices, for example, were the
21 same as what was in effect for Ford at that time and I
22 would have expected changes to go in accordance with
23 changes that were made at Ford.

24 Q You understood, based on the meetings
25 you went to, conversations you had in 1999, and based

1 on your review of the brochure that the pay practices
2 at ZF Batavia for salaried employees was going to track
3 the same as Ford's?

4 A Yeah. Other than going -- getting rid
5 of all the level -- the individual grade levels and
6 having the broad band.

7 Q All right. So if somebody had stepped
8 up at that May 27th meeting and said "This is all
9 subject to change and we don't care what Ford does.
10 We're going to change it whenever we feel it's
11 necessary," that would have come as a surprise to you?

12 A I wouldn't have joined.

13 Q Why not?

14 A Well, I would have felt there was too
15 much uncertainty from my own personal perspective.

16 Q One of the reasons you joined then was
17 that you took some comfort and security in the fact
18 that certain practices, pay practices, benefits were
19 going to stay the same at ZF Batavia as they had at
20 Ford?

21 A I felt that they would, at least in my
22 case as a Ford -- in the case of Ford transitions I
23 felt that they would.

24 Q Have people who work in your department
25 or on your shift in the last few years complained to

1 you that hey, this isn't what we thought we were
2 getting when we joined ZF Batavia?

3 A I've heard complaints like that, yes.

4 Q Has part of the complaints been that
5 hey, they told us we were going to get X, Y and Z and
6 even put it in writing and now we're not getting it?

7 A Yes.

8 Q You've heard that from lots of salaried
9 employees?

10 A I don't know if it's lots, but I've
11 certainly heard it.

12 Q From more than one Ford transitional
13 employee?

14 A Yes.

15 Q And, Mr. Priest, in some ways do you
16 believe that their concerns are justified?

17 A I think that there were some
18 inconsistencies in how things developed versus what
19 some of this -- versus the way this was laid out.

20 Q And when you say this, you're holding
21 up Exhibit 2, right, the brochure?

22 A Yeah.

23 Q What things are you thinking about in
24 particular?

25 A Well, I mean, I just know there was all

1 the concern over the overtime thing and -- and the
2 merit things and payout of the AIP or annual incentive,
3 you know.

4 Q How has the AIP not been the way people
5 thought it would be?

6 A Well, the AIP is -- would be what Ford
7 called a profit sharing, you know, an annual payout or
8 lack of payout. Ford didn't always -- Ford only --
9 Ford paid it based on what the company's performance
10 was. But when they would be paid, it would be paid --
11 if it was going to be three percent of an individual's
12 base pay, that's what it was whether you were hourly,
13 salaried, management role; it was equally applied.

14 Q And that's not the way it was done at
15 ZF Batavia?

16 A I think it's been done that way and
17 then maybe not done that way, depending on the year.
18 You know, I mean, there was --

19 Q Maybe initially it was done that way
20 and then more recently it was one person gets this
21 percentage, this other person gets this percentage?

22 A Yeah.

23 Q And that sort of process for paying
24 this annual bonus is not the way it was done at Ford?

25 A No.

1 Q And you had expected that that pay
2 practice would be as it was at Ford; that was your
3 expectation in '99?

4 A Yes. Also understanding that that may
5 mean no payout at all in a given year. I mean --

6 Q Right.

7 A Right.

8 Q And you certainly understood that when
9 you joined ZF Batavia, that if we have a bad year, we
10 might get zero bonus?

11 A Absolutely. And that was a big part of
12 -- particularly with going to a no overtime kind of
13 thing, it was a consideration for me.

14 Q Looking at Exhibit 2 up in the left-
15 hand corner where it says annual incentive plan, is
16 what's listed there under annual incentive plan, is
17 that what you thought was going to be the determining
18 factor in whether there was a bonus?

19 A Yes.

20 Q If the plant basically met their
21 objective measurables?

22 A Right.

23 Q And if there was a bonus, everybody
24 would get a certain percentage, right, as they had at
25 Ford?

1 A That was my assumption because that's
2 the only way I had ever seen it. I mean, I kind of
3 based what I thought based on what I knew or what I had
4 experienced for years and years.

5 Q And was it your understanding that in
6 the 2000 AIP bonus which was paid out in 2002 that
7 certain people, if they worked a certain amount of
8 overtime, actually had their bonus cut or they lost
9 their AIP bonus completely?

10 A Say the first part of your question
11 again.

12 Q People who received an AIP bonus in
13 2002 --

14 A Yes.

15 Q -- for work they had done in 2001 --

16 A Okay. You initially said 2000, so I
17 just want to make sure I understand the place you're
18 coming from.

19 Q No, no. I appreciate that. That's all
20 right. Was it your understanding that certain people
21 who were paid in 2002 their 2001 bonus, that it was
22 either cut or eliminated entirely because they had
23 worked a certain amount of overtime?

24 A Yes.

25 Q Was that at all consistent with how

1 Ford would have done it?

2 A No.

3 Q Was it consistent with what you see
4 there in Exhibit 2?

5 A No. What Ford would do, though, if I
6 earned -- Ford, your percentage of profit sharing --
7 let's say you and I both earned \$100,000 a year. You
8 earned \$100,000, I earned \$150,000 with overtime and
9 the profit share was five percent. We each got \$5000.
10 Ford did not pay you a profit share --

11 Q Understood.

12 A They didn't improve your profit share
13 because you earned overtime. It was always a percent
14 of your base.

15 Q But if you worked \$50,000 worth of
16 overtime, they didn't take away your \$5000, did they?

17 A No. They didn't add to it or take away
18 from it. They didn't factor overtime into the
19 calculation.

20 Q So a number of people who work in your
21 department who are salaried employees that used to work
22 for Ford complained that "This annual incentive plan is
23 not being followed the way that I thought it was going
24 to be when I signed up"?

25 A Based on the payouts in 2002?

1 Q Mm-hmm.

2 A Yes.

3 Q Had you heard those complaints before
4 2002?

5 A No.

6 Q Did you hear those complaints this
7 year?

8 A No.

9 MR. SIMON: I have no more questions,
10 Mr. Priest. Thank you very much.

11 THE WITNESS: Okay. You're welcome.

- 0 -

(AND FURTHER THE DEPONENT SAITH NAUGHT)

- 0 -

Gerry Priest

C-E-R-T-I-F-I-C-A-T-I-O-N

STATE OF OHIO,

COUNTY OF HAMILTON, To-wit;

I, Susan K. Lee, CVR-CM, Court Reporter and Notary Public in and for the State of Ohio, do hereby certify;

That on the 2nd day of October, 2003, there appeared before me pursuant to Notice and agreement of counsel, **GERRY PRIEST**, as a witness in the previously entitled cause;

That the said witness was sworn by me and examined to tell the truth, the whole truth, and nothing but the truth in said cause;

That the deposition was taken by me via Stenomask and electronic recording and the foregoing 70 pages contain a true, full and correct transcription of all the testimony of said witness;

That the deposition was submitted to counsel for the witness for reading and signature;

That I am not related to or in any way associated with any of the parties to said cause of action, or their counsel, and that I am not interested in the event thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of October, 2003.

Susan K. Lee, CVR-CM
My commission expires:
August 30, 2004